

MINUTES
WARRICK COUNTY AREA BOARD OF ZONING APPEALS

Regular meeting held in the Commissioners Meeting Room,
Third Floor, Historic Courthouse,
Boonville, Indiana

February 23, 2015 at 6:00 P.M.

PLEDGE OF ALLEGIANCE – A moment of silence was held followed by the Pledge of Allegiance.

MEMBERS PRESENT: Tina Baxter, Doris Horn, Mike Moesner, Jeff Valiant, Mike Winge, and Jeff Willis (arrived at 6:10).

Also present were Morrie Doll, Attorney, Sherri Rector, Executive Director and Sheila Lacer, Staff.

MEMBERS ABSENT: Terry Dayvolt.

Roll call was taken and a quorum declared present.

MINUTES: Upon a motion made by Mike Moesner and seconded by Mike Winge, the Minutes of the last regular session held January 26, 2015 were approved as circulated.

ANNUAL REPORT: Approval of 2014 annual report.

Tina Baxter made a motion to accept the annual report. The motion was seconded by Mike Winge and unanimously carried.

SPECIAL USE:

BZA-SU-15-02

APPLICANT: SBA Towers IV, LLC by E. Davis Coots, Coots Henke & wheeler, P.C.

OWNER: Lonnie R. & Carolyn S. Kaiser

PREMISES: Property located on the S side of W Fleming Rd approximately 570 ft E of the intersection formed by W Fleming Rd and Pelzer Rd, Boon twp.

NATURE OF CASE: Applicant requests a Special Use, SU 18, from the requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, IN to allow an Improvement Location Permit for a 300 ft. high self-support tower with a 5 ft. lightning rod (305 ft. total) and associated equipment and equipment shelter to be within a 100x100 sq. ft. lease area with a 25 ft. access and utility easement in a "CON" Recreation and Conservancy District. *(Advertised in The Standard February 12, 2015)*

Dan Coots, with the Law firm of Coots Henke and Wheeler, P.C.on behalf of Davis Coots said he is also representing the owners, Lonnie and Carolyn Kaiser, who are also present. He said that

SBA towers is seeking permission for a Special Use Application to construct a 300 Ft. self-support wireless communications facility. He said this is within a 100x100 Sq. Ft. lease area and is located in Southern Boonville on the south side of West Fleming Road and approximately 570 feet east of Fleming Road and Pelzer Road. He added that the site is approximately 370 feet south of Fleming Road at that location. Mr. Coots added that he was going to give some background information about SBA Towers. He said that they are a company based in Florida that has constructed approximately 15,000 towers in North America. He said in all of their designs, they design a tower for multi-tenants use. He said they have come forward for this proposed site at the request of the RF Design Team with Verizon Wireless to build this tower structurally sound enough to handle additional tenants. He added that once the tower is built then SBA actively pursues other colocation opportunities with other wireless carriers to collocate on this tower. He said this is to minimize the number of towers in the area. He said the subject site is a vacant farm land that is zoned "CON" Recreation and Conservancy District. He said they have forwarded a RF statement to the Area Planning Commission. He added that he doesn't know if the Board has had time to review that information, but it outlines the need of this tower from a RF perspective which stands for radio frequency. He said this site will allow Verizon and other companies to resolve a significant coverage gap in this area. He said as any network is designed, to cover the main concern, they also design their network to offload capacity from other sites. He said this site will be centrally located to allow Verizon to offload capacity from seven area sites, which are listed in the RF statement. He said it will help offload capacity for the Boonville tower, Boonville Downtown tower, Chandler, Paradise, east Newburgh, Yankeetown, and Hatfield to the southeast. He said it will allow customers of wireless companies to have voice and data service in this area that may be unavailable at this time. He added that it will also support homeland security through enhanced 911 services. He said SBA Towers proposed this tower and will construct the tower to meet all government regulations, including the FAA and FCC. He said from a review of this area they have identified two other tower structures within a three mile radius of the proposed site. He said when analyzing these two structures these were both outside of the search ring that the Verizon Engineering Team has designated to accomplish all objectives in the area. He said there are also other characteristics of these two towers that do not meet the criteria and are concerns for the Verizon Engineering Department. He said with that they submit to the Board to adopt the petitioners, propose finding of facts, and approve the applicants Special Use. He added that he would be happy to answer any questions.

Jeff Willis arrived at 6:10 p.m.

The Chairman asked Mrs. Rector for a staff report.

Mrs. Rector said we do have all returned receipts from certified mail except for Ross and Deena Rinehart. She said they have been mailed the notice to the address on file in the Auditor's office but it was incorrect. She added that it should have been Boonville instead of Newburgh. She said the Auditor's office said they took the address off the recorded deed and have now corrected the error. She added that the staff contacted the Rineharts and emailed them a copy of the application. She said that we knew the people and were able to get ahold of them and send them a copy of the application, emailed them about the meeting, agenda and application. She said we told them if they had any objections for not receiving the notice, to email us back, or attend the

meeting. She said we have not heard anything back and according to Attorney Doll they received adequate notice as required.

The Chairman asked when this was mailed and they received notice.

Mrs. Rector said that it was Thursday.

The Chairman said that they had plenty of notice, thank you.

Mrs. Rector said it is a 305 foot tall tower and is required to be 2 feet away from any residences and they are 610 feet away. She said they did fill out the proposed use statement in the application. She added that the property fronts on Fleming Road. She said they are aware that they will have to obtain a utility entrance and post a letter of credit or cashier's check to cover the cost of construction of the entrance OR construct the entrance and have the County Engineer sign off on it before a permit is issued. She said the attorney has covered all of the other information needed and the application is in order. She added that he does have a recorded power of attorney, but doesn't need one and the owners are also here.

Mike Moesner asked if there is any radio frequency interference that radiates from the tower in the immediate area or is that totally outside the range of the frequencies such as; satellite T.V., etc.

Dan Coots said not that they are aware of. He said the tower will comply with all radio frequencies.

Mike Moesner said he didn't know if there was a certain radius around the tower that would cause certain radio frequencies to be a concern to near neighbors.

Dan Coots said in all of the hearings they have done over the years, the RF Engineering team makes sure that the antennas are at least outside of 8 feet from any pedestrian traffic. He said that is the only concern is if you are closer than 8 feet. He added that this specific tower has their antenna proposed to be 285 feet and it will be built for 3 additional center lines for other co-locators, well above the expectable distances.

Mrs. Rector said that we have heard a lot of these and they are starting to come back really frequently lately. She said that most of the time it was reported that they had to have their own frequencies that can't interfere with anything else in the area.

Dan Coots said yes, they have to apply to the government for frequency levels.

Mike Winge asked if this is taking away a dead or weak spot.

Dan Coots said yes that is the main RF objective and that he doesn't know if it's a complete dead zone. He said this area does have a gap in coverage in this area and this would make the whole network optimize.

Mike Moesner asked how long it takes to complete construction.

Dan Coots said it depends on how aggressive they want to put the tower up. He said they could potentially pull permits and start right away or it could take months.

The Chairman said he assumes the lighting will be approved by FAA and will be strobe, blinking lights.

Dan Coots said whatever is approved by the FAA is what it will have.

Mrs. Rector asked if it was a monopole structure.

Dan Coots said it is a self-support lattice tower, free standing with no wires.

The Chairman asked for any remonstrators for or against the project.

Being none he asked the Board for any other questions. Being none he called for a motion.

I, Mike Moesner, make a motion finding of fact be made as follows from the testimony and proposed use statement:

1. The USE is deemed essential or desirable to the public convenience or welfare.
2. The USE is in harmony with the various elements or objectives of the Land Use Plan for Warrick County.
3. The USE will not be a nuisance or serious hazard to vehicles, pedestrians, or residents.
4. The USE as developed will not adversely affect the surrounding area.
5. Adequate and appropriate facilities will be provided for proper operation of the USE.
6. The specific site is appropriate for the USE.

And the Application be approved in accordance to the application and plans on file, subject to the following conditions:

- a) Subject to any required State of Federal Permits.
- b) Subject to an Improvement Location Permit
- c) Subject to any required Building Permit from the Warrick County Building Department.

- d) Subject to the property being in compliance at all times with the applicable zoning ordinance of Warrick County.
- e) Subject to all public utility easements and facilities in place.
- f) Subject to the following from the Warrick County Comprehensive Zoning Ordinance:
 - a. Each operator of a telecommunications facility must send to the Area Plan Commission a copy of any notice sent to the FCC of intention to cease operations. All abandoned or unused towers and associated facilities shall be removed within six (6) months of the cessation of operations at the site unless a time extension is approved by the Board of Zoning Appeals. A copy of the relevant portions of a signed lease which requires the applicant to remove the tower and associated facilities upon cessation of operations at the site shall be submitted prior to issuance of the required improvement location permit, shall be incorporated as part of the permit, and permit approval shall be conditioned upon removal of the structures(s) within six (6) months after cessation of the use. In the event that the tower is not removed within six (6) months of the cessation of operations at a site, the tower and associated facilities may be removed by the County and the costs of removal assessed against the property. (pg. 35)
 - g) Subject to an anti-climbing device and/or fence be put up around tower.
 - h) Subject to obtaining a utility driveway permit.
 - i) Subject to a signed lease agreement being submitted.

The motion was seconded by Mike Winge and unanimously carried.

Mrs. Rector said she will email the approval when it is done.

Dan Coots gave Mrs. Rector a copy of the lease for record.

BZA-SU-15-05

APPLICANT: Warrick Veterinary Clinic, Newburgh Plaza by Jordan Baker, President

OWNER: Donald & Della Lutton

PREMISES: Property located on the E side of SR 261 approximately 250 ft N of the intersection formed by SR 261 and Robin Hill Rd, Ohio twp.

NATURE OF CASE: Applicant requests a Special Use, SU 8, from the requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, IN to allow an Improvement Location Permit for a 2'6" X 6'3" electronic message board on an existing sign in a "C-4" General Commercial zoning district. (*Advertised in The Standard February 12, 2015*)

Jordan Baker, Veterinary Clinic Newburgh Plaza was present. He said he is here today for a Special Use Permit in regards to an electronic message board to better allow communication with the clients in the community. He said it will be similar to the one existing at their other location

in Boonville off 261. He said it will be a little bit different type because this will be the full color rather than the 3 color that the other one is. He said this would be getting installed by Custom Signs, which is a local business here that operates and conducts these types of projects. Jordan Baker said he would be happy to answer any question or concerns.

The Chairman asked Sherri Rector for a staff report.

Mrs. Rector said we have all return receipts from certified mail. She said as stated this is to allow an Improvement Location Permit for a 2'6" X 6'3" electronic message board on an existing sign in a "C-4" General Commercial zoning district. She said the existing land use is already there and is the Veterinary Clinic. Mrs. Rector said Mr. Baker and his family is buying out Dr. Lutton's practice. She said he does have a recorded power of attorney to represent the Lutton's tonight and he has answered the questions on the proposed use statement that are in your application. She said the application is in order and if this is approved you cannot have flashing lights that say, "STOP" or anything that would hurt anyone driving. She said it also cannot be used to advertise other businesses otherwise it would be a billboard.

Mike Moesner asked if the proposed sign is smaller than what is already there.

Jordan Baker said yes the existing sign is a 4x8 and this will basically be an add on below the existing sign. He said we plan to keep the existing framework (like shown in picture). He added that the inserts there will be switched to indicate the new ownership.

Mike Moesner said thank you.

The Chairman asked the Board for any other questions. Being none he asked for any remonstrators for or against this project. Being none he entertained a motion.

I, Mike Winge, make a motion finding of fact be made as follows from the testimony and proposed use statement:

7. The USE is deemed essential or desirable to the public convenience or welfare.
8. The USE is in harmony with the various elements or objectives of the Land Use Plan for Warrick County.
9. The USE will not be a nuisance or serious hazard to vehicles, pedestrians, or residents.
10. The USE as developed will not adversely affect the surrounding area.
11. Adequate and appropriate facilities will be provided for proper operation of the USE.
12. The specific site is appropriate for the USE.

And the Application be approved in accordance to the application and plans on file, subject to the following conditions:

1. Subject to an Improvement Location Permit being obtained.
2. Subject to any required Building Permits being obtained.
3. Subject to the Special Use not being altered to become any other use nor expanded than that which was approved by the Board of Zoning Appeals.
4. Subject to the property being in compliance at all times with the applicable zoning ordinances of Warrick County.
5. Subject to all public utility easements and facilities in place.
6. Subject to no use of the words, 'stop', 'danger', 'look', or any other word which would confuse traffic.
7. Subject to no revolving beams of light or strobe lights.

Motion seconded by Doris Horn and unanimously carried.

ATTORNEY BUSINESS:

None.

EXECUTIVE DIRECTOR BUSINESS:

None.

Being no other business the meeting adjourned at 6:25 p.m.

Jeff Valiant, Chairman

ATTEST:

The undersigned Secretary of the Warrick County Board of Zoning Appeals does hereby certify the above and foregoing is a full and complete record of the Minutes of the said Board at their monthly meeting held February 23, 2015.

Sherri Rector, Executive Director